IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.7876 OF 2004

Shri Naganath Pandurang Joshi, .. Petitioner

Vs

1.Prabhavati Ramkrishna Kulkarni

and ors. .. Respondents

Mr M.A.patil, for the petitioner.

CORAM : D.B.BHOSALE,J.

DATE : 29th September, 2004.

PC:

1. Heard the learned counsel for the petitioner.

2. This petition is directed against the order dated 1.7.2004 passed by the learned Civil Judge, Jr.Dn., Sangola, below Exhibit-183 in Regular Darkhast No.42/79. The Darkhast was filed in 1979. It is clear from the material produced before me that the Regular Civil Suit No.12/70 was instituted in 1970 and the subject matter of the suit was house no.532. It is not the case of the judgment-debtor that house no.532 was never in existence. From the discussion in paragraphs 11 and 12 of the impugned order, it is clear that the judgment debtor demolished the house no.532 and constructed a new house in its place pending the execution proceedings without prior permission of the Court. The lower court

after considering the material placed on record has categorically recorded a finding that the nature of house no.532 was changed only with a view to deprive the decree holder to enjoy fruits of the decree. I see no reason to disturb the findings recorded by the court below. In my opinion, the demolition of house no.532 pending execution and construction of a new structrue at the same place and change in the CTS number, would not make the decree inexecutable as contended by Mr Patil, learned counsel for the petitioner. In the circumstances, this petition fails and is dismissed as such.

. An authenticated copy of this order may be made available to the parties.

(D.B.BHOSALE, J.)